

Sorenson Bio Science and its insurance carrier, Liberty Mutual Insurance Co. (referred to jointly as "Sorenson" hereafter) ask the Utah Labor Commission to review Administrative Law Judge Sessions' award of permanent total disability compensation to C. C. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. C. was involved in three separate work accidents. The first occurred on August 17, 1987, at Fleming Co. The second and third occurred at Sorenson on December 15, 1996, and November 8, 1999, respectively. Thereafter, Mr. C. found employment with Merit Medical, but that employment ended after Mr. C. tested positive for drug use and failed to complete a drug treatment program.

Judge Sessions' decision of May 19, 2005, concluded that Mr. C. was entitled to a preliminary finding of permanent total disability. Sorenson now asks the Commission to review Judge Sessions' decision because, among other things, the decision fails to provide an adequate explanation of the basis on which Judge Sessions concluded Mr. C. is permanently and totally disabled.

DISCUSSION AND CONCLUSION OF LAW

Judge Eblen presided over the initial proceedings on Mr. C.'s claim. In particular, Judge Eblen conducted a formal evidentiary hearing, issued a 15-page interim order, and referred the medical aspects of the claim to a medical panel. The medical panel submitted its report to Judge Eblen, but Judge Eblen resigned her position with the Commission before issuing a decision. Consequently, responsibility over this matter was transferred to Judge Sessions.

On May 19, 2005, Judge Sessions issued a decision concluding that Mr. C. was entitled to a preliminary finding of permanent total disability. However, rather than setting out the facts that he found relevant to Mr. C.'s claim, Judge Sessions chose to incorporate by reference all the findings of fact from Judge Eblen's interim decision and from the medical panel's report. As a result, it is difficult to understand the factual and logical basis for Judge Sessions' ultimate conclusions.

After careful consideration, the Commission concludes that Judge Sessions' decision cannot simply be repaired by the Commission as part of the motion for review process. The facts of Mr. C.'s claim are complex and not entirely consistent with Judge Sessions' determination of permanent total disability, or Judge Sessions' attribution of such disability to the accident of December 1996. Even Mr. C. recognizes the inadequacies of the existing decision, since his response to Sorensen's motion for review suggests that the Commission should modify substantial parts of the decision.

In light of the foregoing, the Commission returns this matter to Judge Sessions to issue a decision that sets out the facts of Mr. C.'s claim and then clearly apply the provisions of the Utah Workers' Compensation Act to those facts. On remand, Judge Sessions may conduct such additional proceedings as he believes necessary to comply with this directive. Furthermore, in light of the time that Mr. C.'s claim has already been pending before the Commission, the Commission directs Judge Sessions to give this matter his prompt attention.

ORDER

The Commission sets aside Judge Sessions' decision of May 19, 2005, and remands this matter to Judge Sessions for additional proceedings consistent with this decision. It is so ordered.

Dated this 1st day of February, 2006.

R. Lee Ellertson
Commissioner